

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

AUG 26 2005

FILE

OFFICE OF
MANAGING DIRECTOR

William R. Summers
Vice President Operations
E.N. Bisso & Sons, Inc.
3939 North Causeway Blvd.
Suite 401
Metairie, Louisiana 70002

Re: Request for Refund of Regulatory Fees
Fee Control No. 0410228994212007

Dear Mr. Summers:

This is in response to your request dated December 23, 2004, filed on behalf of E.N. Bisso, Inc. (Bisso) for "a partial refund of the regulatory fee paid in association with the ship fleet license for Call Sign WSN 3298."¹

You assert that "[n]ew United States Coast Guard regulations implementing the Maritime Transportation Security Act of 2002 [under 33 C.F.R. Part 164] require the installation of automatic identification systems (AIS) on certain marine vessels as of December 31, 2004[.]" You state that "AIS equipment requires that each vessel equipped with AIS be assigned a unique Maritime Mobile Service Identi[ty] (MMSI) number."² You state that "MMSI's are assigned to licensed vessels by the Commission, but that the Universal Licensing System assigns MMSI's only to holders of individual ship radio station licenses, and not to fleet license holders." You claim the Wireless Telecommunications Bureau (Bureau) advised Bisso that "to obtain MMSI's so as to comply with the Coast Guard's requirement, fleet licenses for such vessels must be replaced with an individual license for each vessel." As a consequence, Bisso "obtained individual licenses for the vessels that were licensed under fleet license Call Sign WSN 3298" and "canceled the fleet license for Call Sign WSN 3298" on December 23, 2004. You state that "[t]he fleet license for Call Sign WSN 3298 was issued/renewed on October 26, 2004, so 10 years . . . of its 10-year term remained at the time the license was canceled." You maintain that a refund of the regulatory fee is appropriate because the fleet license had to be replaced with the individual licenses.

¹ You do not request refund of application fees.

² MMSI's are nine-digit identifiers (similar to telephone numbers) transmitted along with a radio communication to identify ship stations, ship earth stations, coast stations, coast earth stations, and group calls. *See Amendment of Parts 80 and 87 of the Commission's Rules to Permit Operation of Certain Domestic Ship and Aircraft Radio Stations without Individual Licenses*, 11 FCC Rcd 14849, 14853 (1996).

Our records reflect that on October 12, 2004, Bisso filed an application to renew for a ten-year term the twenty station fleet license for Call Sign WSN 3298,³ along with the associated renewal and regulatory fees.⁴ Because Bisso requested renewal of a license for twenty ship stations for a ten-year term, for each station, Bisso filed a renewal application fee of \$55.00, plus a regulatory fee of \$15.00 for each year of the ten-year license term (*i.e.*, a \$150.00 regulatory fee for each station), for a total fee of \$4,100.00 for the twenty stations. Also on October 12, 2004, Bisso filed a modification application to reduce the number of ship stations covered by the fleet license from twenty to ten, along with the associated \$55.00 filing fee.⁵ On October 26, 2004, the Wireless Telecommunications Bureau (Bureau) granted Bisso's application to renew the twenty-ship fleet license.⁶ Also on October 26, 2004, the Bureau granted Bisso's application to reduce the number of ship stations covered by the fleet license from twenty to ten.

On December 15, 2004, Bisso filed applications for individual licenses for five of the ten ship stations covered by the fleet license, along with the associated application and regulatory fees. Specifically, for each of the five ship stations, Bisso paid a \$55.00 application fee and a \$15.00 regulatory fee for each year of the ten-year license term (*i.e.*, a regulatory fee of \$150.00 for each station), for a total fee of \$1,025.00 for the five stations. The Bureau granted the five new license applications on December 16, 2004. On December 23, 2004, Bisso filed an application to cancel the ten-ship fleet license for Call Sign WSN 3298, which the Bureau granted on December 24, 2004.

³ See generally 47 C.F.R. §80.55 (under certain circumstances, the Commission's rules permit the owner or operator of multiple ships requiring a license for their ship radio stations either to obtain a license for each ship station individually or to obtain a fleet ship license covering all the subject ship stations).

⁴ The regulatory fee at issue here is considered a "small fee" and is therefore collected in advance for the entire ten-year license term and remitted when the license application is filed. See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, paras. 36, 38, and 68 (1994), *on recon.*, 10 FCC Rcd 12759 (1995); 47 C.F.R. §1.1152, Note 1; see also 47 C.F.R. §1.1152(4) (Shared Use Services: Marine Ship).

⁵ We note that although Bisso filed its renewal application separately from its modification application, our rules permit licensees to modify and renew a license in one application. See 47 C.F.R. §1.1152(4) (Shared Use Services: Marine Ship).

⁶ The Bureau renewed the fleet license from October 26, 2004 through November 28, 2014.

In pertinent part, Section 1.1160(a)(2) of the Commission's rules, 47 C.F.R. §1.1160(a)(2), provides that:

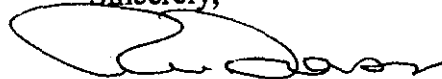
In the case of advance payment of regulatory fees, subject to section 1.1152, a refund will be issued based on *unexpired full years*: . . . (ii) When a licensee in the wireless radio service surrenders the license or other authorization subject to a fee payment to the Commission (Emphasis provided.)

With respect to the ten ships whose fleet license was renewed and cancelled on the same day (*i.e.*, October 26, 2004), we grant Bisso a refund of the entire regulatory fee paid for the ten-year license term under section 1.1160(a)(2)(ii). Specifically, we grant a refund of the \$150.00 regulatory fee that Bisso paid for each of these ten ship stations. Regarding the five ship stations whose fleet license was renewed on October 26, 2004, and subsequently cancelled on December 24, 2004 (and for which Bisso did not request individual licenses), we grant a refund of the regulatory fee paid by Bisso for the last nine unexpired full years of the fleet license under section 1.1160(a)(2)(ii). Specifically, we grant a regulatory fee refund of \$135.00 for each of these five stations for these years. We find that Bisso is not entitled to a refund of the regulatory fee paid for the first year of the ten-year fleet license for these five ship stations because section 1.1160 provides that a refund of regulatory fees paid in advance under section 1.1152, such as those at issue here, are based on "unexpired full years" and Bisso held the license for these stations for almost two months of that year.

With respect to the five ship stations whose fleet license was renewed on October 26, 2004, and cancelled on December 24, 2004, and for which the Bureau granted five individual licenses on December 16, 2004, we grant Bisso a refund of the regulatory fee paid for each of these five ships for the last nine unexpired full years of the fleet license under section 1.1160(a)(2)(ii). Specifically, we grant a regulatory fee refund of \$135.00 for each of these five ship stations. We find that Bisso is not entitled to a refund of the regulatory fee paid for the first year of the ten-year fleet ship license term for these five ship stations because Bisso held the license for these stations for a portion of that year. In summary, we grant Bisso a refund of the regulatory fees at issue here, with the exception of the regulatory fees paid for the first year of the fleet license for the ten ship stations whose authorizations under the fleet license was cancelled on December 24, 2004.

A check, made payable to the maker of the original check, and drawn in the amount of \$2,850.00, will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

Operations Office:

Foot of Walnut Street
New Orleans, Louisiana 70118
Telephone (504) 861-3551
Fax (504) 861-9971

Corporate Office:

3939 North Causeway Blvd, Suite 401
Metairie, Louisiana 70002
Telephone (504) 828-3296
Fax (504) 831-6701

E. N. Bisso & Son, Inc.

December 23, 2004

04102289942/2007

Attention: Mr. Andrew Fishel
Managing Director
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attn: Wireless Telecommunications Bureau
Licensing Division

Dear Mr. Fishel:

By this letter, we request a partial refund of the regulatory fee paid in association with the ship fleet license for Call Sign WSN 3298.

New United States Coast Guard regulations implementing the Maritime Transportation Security Act of 2002 require the installation of automatic identification systems (AIS) on certain marine vessels as of December 31, 2004 (see 33 CFR Part 164). The proper functioning of AIS equipment requires that each vessel equipped with AIS be assigned a unique Maritime Mobile Service Identifier (MMSI) number. MMSI's are assigned to licensed vessels by the Commission, but the Universal Licensing System assigns MMSI's only to holders of individual ship radio station licenses, and not to fleet license holders. The Wireless Telecommunications Bureau's Public Safety and Critical Infrastructure Division (PSCID) advised us that, in order to obtain MMSI's so as to comply with the Coast Guard requirement, fleet licenses for such vessels must be replaced with an individual license for each vessel. (James Shaffer or Ghassan Khalek of PSCID can provide further information.)

Consequently, we have obtained individual licenses for the vessels that were licensed under fleet license Call Sign WSN 3298. Then, on 12-23-04, we canceled the fleet license for Call Sign WSN 3298. The fleet license for Call Sign WSN 3298 was issued / renewed on 10-26-2004, so 10 years remain of its 10-year term remained at the time the license was canceled. The regulatory fee that we paid in association with the fleet license Call Sign WSN 3298 was \$4,210.00. Therefore, we request a refund of \$4210.00. (We understand that the application fee cannot be refunded.)

A prorated refund of the regulatory fee is appropriate because the fleet license had to be canceled due to the fact that Coast Guard regulations require that these vessels obtain MMSI's, but the Commission issues MMSI's only to individually licensed vessels and not to fleet-licensed vessels. The Coast Guard regulations were clarified after the license for the Call Sign WSN 3298 was issued, so we could not have anticipated that the fleet license would have to be replaced with the individual licenses prior to the expiration date until this final clarification was disseminated.

Please remit payment to:

E.N. Bisso & Son, Inc.
3939 N. Causeway Blvd, Suite 401
Metairie, LA 70002

Thank you for your timely attention to this matter.

Sincerely,


William R. Summers
Vice President Operations

2 day letter
Assign to Regina - Question
30 day tickler
✓ Copy
✓ Paul Casin
done
11/12/04
1/6/04